

By contrast, the Commission noted that "voice storage or automatic call answering. . . would be enhanced services." Computer II, 77 FCC Rcd at 421. Pacific Bell included an answering machine and voice mail as part of its provision of services to Santa Clara County, providing for automatic call answering.²⁹ Further, the recording capabilities provided by LECs clearly involve voice storage. For example, in the Santa Clara County Response, Pacific Bell notes the 100 day tape storage capacity with its recording equipment.³⁰ The use of stored (recorded) information also indicates subscriber interaction with the information. With the equipment described by Pacific Bell, for example, correctional officials may be able to search recorded calls for information relating to an investigation of a particular inmate. The LECs' provision of enhanced services for inmate-only phones and systems must be provided on an unregulated basis.³¹

²⁹ See Santa Clara County Response § II, page 24, 30.

³⁰ See Santa Clara County Response § II, page 24.

³¹ Even if the Commission were to rule that equipment provided on premises to perform the voice storage functions described in this section is not classified as CPE (see section III.B, supra), the Commission must rule that the services involving voice storage are enhanced. To rule otherwise would put the Commission in the anomalous position of deciding that the feature-rich enhancements offered through on-premises equipment can be offered on a regulated basis even though the equipment clearly performs enhanced services. The peculiarity of such a position dramatically demonstrates both the complications that would result from extending the narrow Computer II exception for regulatory treatment of public payphones to other types of equipment and that the Computer II public payphone exception was never intended to apply to inmate-only phones and systems.

The Commission similarly determined in NATA that Customer Dialed Account Recording ("CDAR") -- a feature permitting a customer to "tag" calls with account numbers -- is an enhanced service. Id. at ¶ 42. The Commission noted that CDAR permits a customer to store and retrieve "information [which] is not used in the provision or management of the customer's telephone service. . . ." Id.

As with the CDAR feature at issue in NATA, the LECs' provision of certain specialized features with inmate-only service is enhanced. The use of PIN numbers associated with each inmate is similar to the use of CDAR. As Pacific Bell noted in its response to Santa Clara County, the PIN number becomes a part of the call record, and is used to track a particular inmate's activities. The use of PIN numbers requires input of an information "tag" to identify each inmate and track calls accordingly. This information tag is the equivalent of account codes (CDAR) found by the Commission in the NATA case to be enhanced.

V. THE ISSUES RAISED ARE RIPE FOR DECLARATORY RULING.

The issue of the legality, under the Commission's Orders and regulations concerning customer premises equipment and enhanced services, of LEC practices with respect to provision of inmate-only services is ripe for resolution under the Commission's declaratory ruling procedures. There is a clear need to remove uncertainty as to whether or not it is lawful. See 47 C.F.R. § 1.2. Moreover, the issue presented is industry-wide in scope and the essential facts underlying the issue are not in dispute.

Rather, the question posed is a legal one: Should LEC inmate-only phones be provided as CPE and/or enhanced services? In these circumstances, a declaratory ruling is warranted. AT&T Co., Petition to Rectify Terms and Conditions of 1985 Annual Access Tariffs, Declaratory Ruling, 3 FCC Rcd 5071 (Common Carrier Bureau), 1988) (a declaratory ruling is warranted to resolve the lawfulness of actual or proposed carrier actions where the facts are undisputed), clarified in Order, DA No. 88-1406, released September 15, 1988.

WHEREFORE, ICSPTF respectfully requests that the Commission:

A. declare that inmate-only phones and inmate-only phone systems are unregulated CPE, subject to the Commission's Rules and Orders governing the provision of CPE;

B. declare that the enhanced services provided in conjunction with inmate-only phones and inmate-only systems must be provided on an unregulated basis, subject to the Commission's Rules and Orders governing the provision of enhanced services;

C. declare that LEC provision of inmate-only phones and systems as part of regulated services is unlawful; and


D. provide such other relief as may be appropriate.

Respectfully submitted,

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Washington, D.C. 20005-3919
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Attorneys for the Inmate Calling
Services Providers Task Force

By:


Albert H. Kramer
Helen M. Hall

Dated: February 2, 1993

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RM 5181

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF COINLESS
LOCAL EXCHANGE SERVICE BY
MEANS OF CUSTOMER-PROVIDED
COINLESS TELEPHONES

] DOCKET NO. 90-209-U
] ORDER NO. 3
]

BEFORE SARAH M. BRADSHAW

ADMINISTRATIVE LAW JUDGE

COPY

THE ABOVE-STYLED MATTER came on for hearing
before Jo Anne Horn, CCR Certificate No. 75,
commencing at 9:30 a.m. On the 19th day of February,
1991, in Hearing Room No. 1 at the Arkansas Public
Service Commission, 1000 Center Street, Little Rock,
Arkansas as follows:

APPEARANCES:

MS. SUSAN E. D'AUTEUIL
Arkansas Public Service Commission
1000 Center Street
Post Office Box 400
Little Rock, Arkansas 72203

[For the Staff]

MR. GARRY S. WANN
Southwestern Bell Telephone Company
1111 West Capitol, Room 1005
Post Office Box 1611
Little Rock, Arkansas 72203

[For Southwestern Bell Telephone Company]

MS. SUSAN C. GENTZ
Bickerstaff, Heath & Smiley
98 San Jacinto Boulevard, Suite 1800
Austin, Texas 78701

[For Intellicall, Inc.]

MR. H. BAKER KURRUS and MR. DOUGLAS BRENT
Shults, Ray & Kurrus
200 West Capitol, Suite 1600
Little Rock, Arkansas 72202

[For Americall Dial O Services]

MR. CHARLES L. SCHLUMBERGER
Wright, Lindsey & Jennings
2200 Worthen Bank Building
200 West Capitol Avenue
Little Rock, Arkansas 72201

[For AT&T Communications]

MR. STEPHEN K. CUFFMAN
400 West Capitol Avenue

Little Rock, Arkansas 72211

[For MCI Telecommunications]

I N D E X

WITNESSES:

For Southwestern Bell:

EDWARD ALICE

<u>DIRECT</u>	<u>CROSS</u>
14	16, 21

KIRK BENDER

<u>DIRECT</u>	<u>CROSS</u>
225	229, 234

For AT&T Communications:

DENNIS CORRIGAN

<u>DIRECT</u>	<u>CROSS</u>
49	52

For Intellicall, Inc.:

REED PRESSON

<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
84	85, 109, 111, 114	116	124

For Americall Dial 0:

MICHAEL STENSON

<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>
145	151, 165	167

LARRY NORRIS

<u>DIRECT</u>	<u>CROSS</u>
178	190, 191, 195

For the Staff:

KATHY GAMMILL

<u>DIRECT</u>	<u>CROSS</u>
209	210, 211, 212, 220

REPORTER'S CERTIFICATE. 240

DIRECT EXAMINATION

BY MR. WANN:

Q. State your name please.

A. Kirk Bender, Jr.

Q. Mr. Bender, who do you work for and what is your current job title?

A. I work for Southwestern Bell Telephone Company. My current title is area manager, sales and service center, public communications.

Q. Could you give me just a brief summary of your job responsibilities?

A. Yes. I am in charge of the business office, sales, issuing of orders, location of telephone sets, and security for the state of Arkansas for public communications for Southwestern Bell.

Q. Now when you say public communications, does that include coinless also?

A. Yes.

Q. What are the two types of coinless service currently being offered in Arkansas.

A. We offer coinless service based on the location. We have a coinless service that we offer in truck stops, airports, hotel/motel locations where there's a high volume of long-distance intraLATA calling and credit card calls. We also offer coinless service in

1 the inmate market and we restrict inmate to collect
2 calls only.

3 Q. Now, does Southwestern Bell Telephone have
4 tariffs for both of those services?

5 A. Yes.

6 Q. Were you present when Mr. Norris testified
7 earlier today?

8 A. Yes.

9 Q. Mr. Norris briefly went into the RFP that was
10 issued by the prison systems. Did Southwestern Bell
11 Telephone file a RFP?

12 A. We filed a response, yes, we did.

13 Q. I asked a few questions of Mr. Norris, and in
14 particular I asked him what enhanced features he felt
15 were necessary to provide a good telephone system for
16 the inmate population. If I recall correctly, I asked
17 him about called number restriction, which restricts
18 inmates from calling specific numbers. And let me
19 take these one by one. Can Southwestern Bell
20 Telephone offer that enhanced feature?

21 A. Yes.

22 Q. Was that stated in the RFP?

23 A. Yes.

24 Q. The second enhanced feature is called duration
25 timing. My understanding is that allows the

1 correctional facility to limit the length of each
2 call.

3 A. That's correct.

4 Q. Can Southwestern Bell Telephone offer that
5 service?

6 A. Yes.

7 Q. Did we state that in the RFP?

8 A. Yes.

9 Q. The third enhanced feature addressed by
10 Mr. Norris was allowed numbered listing, which allows
11 the correctional official to limit inmates calling to
12 only telephone numbers contained in his or her pen
13 number, and he described the pen number to me. Can
14 Southwestern Bell offer that?

15 A. Yes.

16 Q. Did we make that offer in the RFP?

17 A. Yes.

18 Q. I believe Mr. Norris then said something about he
19 would like to have cutoff or on and off features.
20 What is that?

21 A. We provide cutoff in two different ways. Cutoff
22 can be provided by a manual switch for each telephone
23 located at a location specified by the inmate
24 facility, such as a radio dispatch room or a place
25 where a guard has -- is in charge of the prisoners.

1 We can locate a cutoff switch there. In case of
2 emergencies or they need to cut a phone off, they can
3 do that. With enhanced features we can also provide
4 cutoff through programming, where the phones can be
5 cut on and off during certain times of the day based
6 on the request of the facility.

7 Q. And Southwestern Bell can provide that?

8 A. Yes.

9 Q. Was that offered in the RFP?

10 A. Yes.

11 Q. The last feature that Mr. Norris mentioned was he
12 said he might want something related to monitoring
13 capabilities. What does that mean to you?

14 A. Monitoring -- right now I've had no requests for
15 monitoring. Monitoring would be the ability to go
16 into any telephone call and monitor the conversation,
17 and we're currently not providing that but we have the
18 capability of providing that to the extent that the
19 law allows.

20 Q. Well, we won't get into the law, but we can offer
21 it?

22 A. Yes.

23 Q. Was that offered in the RFP?

24 A. Yes.

25 MR. WANN: Your Honor, that addresses the

1 five enhanced feature that Mr. Norris said that he
2 would like to have in the inmate prison population. I
3 simply bring this to your attention because there have
4 been allegations in the pleadings that Southwestern
5 Bell cannot provide these features. I submit the
6 witness for cross-examination.

7 JUDGE BRADSHAW: Mr. Schlumberger?

8 MR. SCHLUMBERGER: No questions.

9 JUDGE BRADSHAW: Ms. Gentz?

10 MS. GENTZ: Yes, Your Honor.

11 CROSS EXAMINATION

12 BY MS. GENTZ:

13 Q. Mr. Bender, you indicated that Southwestern Bell
14 offers call at numbered restriction; is that correct?

15 A. Yes.

16 Q. When you say Southwestern Bell offers, do you
17 mean that it is available now?

18 A. Yes.

19 Q. It is available from all of Southwestern Bell's
20 central offices?

21 A. No, this is not a feature from the central
22 office.

23 Q. This is in the pay telephone itself?

24 A. Yes.

25 Q. Would you explain to me how that works please?

1 A. When you're talking call numbered restriction,
2 are you talking pen number or are you talking call
3 blocking such as a specific telephone number that they
4 would like to block?

5 Q. Blocking a specific telephone number.

6 A. Okay. Blocking is achieved through a programming
7 of the coinless telephone set with a enhanced card
8 that is programmable to provide that feature.

9 Q. Okay. How many numbers can you block? For
10 example, a specific seven digit number or 950 access
11 codes or a variety of them?

12 A. Yes. Yes, all of those that you mentioned.

13 Q. Is there any limit on the number of restrictions
14 you can place in the programming?

15 A. The original limitation that I was aware of was
16 up to 500 numbers per telephone set, and I believe
17 there's an update available but I'm not exactly sure
18 that will increase that to 1,000.

19 Q. You also testified that Southwestern Bell offers
20 call duration restrictions?

21 A. That's correct.

22 Q. And is that a feature that is available right
23 now?

24 A. Yes.

25 Q. Is that a feature that exists in the central

1 office or exists in the pay telephone?

2 A. In the pay telephone.

3 Q. How does the telephone know when a call has been
4 answered?

5 A. I'm not sure I understand your question.

6 Q. Well, if the inmate places the call, how does the
7 telephone know whether and when the call has in fact
8 been answered as opposed to being allowed to ring?

9 A. I'm still not clear what you're asking, I'm
10 sorry.

11 Q. What triggers the timing of the call? In other
12 words, you can't -- if your purpose is to limit the
13 actual time of conversation that the inmate has, you
14 don't want the clock to begin to run until the
15 telephone is answered. My question is how does the
16 instrument know that the call has been answered so
17 that the clock can begin to run?

18 A. I don't know the answer to that.

19 Q. Do you know if in fact the duration is restricted
20 based on when the call is answered?

21 A. No, I don't.

22 Q. You also indicated that Southwestern Bell offers
23 pen number restrictions.

24 A. Yes.

25 Q. Is that something that is available right now?

1 A. Yes.

2 Q. Is that also located in the telephone instrument?

3 A. No.

4 Q. Is that located in the central office?

5 A. Yes.

6 Q. Are all of your central offices capable of
7 providing this service?

8 A. They could be equipped, yes.

9 Q. Do you equip them if you receive a request from a
10 confined facility?

11 A. I've not received any requests for that feature.

12 Q. Are any of these three restrictions we've
13 discussed here, the restriction on the called number,
14 call duration and pen number actually in operation in
15 effect anywhere in Arkansas at this time?

16 A. Yes.

17 Q. Is it correct that these three features can apply
18 only to local and intraLATA calls?

19 A. I don't know.

20 MR. WANN: Your Honor, let the record state
21 that we only have authorization for local and
22 intraLATA calls. So obviously we're not trying to
23 make the feature go to interLATA or interstate, which
24 are prohibited to providing.

25 Q. (By Ms. Gentz) Given that Southwestern Bell only

1 has authority to provide local and intraLATA service,
2 would Southwestern Bell be in a position to apply any
3 of these restrictions to interLATA or interstate
4 calls?

5 A. I don't know.

6 MR. WANN: I think she's asking for a legal
7 conclusion. He would not know that.

8 Q. (By Ms. Gentz) Is it your answer that you don't
9 know whether in fact these three restrictions apply to
10 interLATA calls?

11 JUDGE BRADSHAW: Ms. Gentz, could I ask you a
12 question? Are you asking for legally whether that's
13 capable or technologically whether that's possible?

14 MS. GENTZ: In actuality -- I would like to
15 know in actuality whether it works or not. I know
16 this witness is not an attorney, and I did not intend
17 to ask him a question that would call for a legal
18 conclusion. So I -- the next level of question is
19 technologically whether they have the capacity to
20 block an interLATA or interstate call.

21 JUDGE BRADSHAW: Proceed if your asking on a
22 technical basis. Obviously you understand the witness
23 is not going to give you a legal conclusion on an
24 answer.

25 MS. GENTZ: Yes, I do, Your Honor.

1 A. If we were -- were requested to block a number
2 that was out of state, if the facility requested that
3 we block a telephone number, residence number,
4 whatever, that is an out of state, yes, we would block
5 that.

6 MS. GENTZ: That's all I have. Thank you.

7 JUDGE BRADSHAW: Mr. Kurrus or Mr. Brent for
8 Americall?

9 MR. KURRUS: Mr. Brent.

10 MR. BRENT: I have just a few questions.

11 CROSS EXAMINATION

12 BY MR. BRENT:

13 Q. In response to a question a moment ago,
14 Mr. Bender, you indicated that the -- the first
15 feature that you talked about, the called number
16 restriction, is not based in the central office but is
17 based within the set itself; is that correct?

18 A. The call blocking?

19 Q. Right.

20 A. That's correct.

21 Q. So this is a set other than the typical
22 Southwestern Bell pay telephone that we might see; is
23 that correct?

24 A. It is the same coinless set that we use now.

25 Q. Okay. Except for the exterior may appear to be

1 the same; is that correct?

2 A. That's correct.

3 Q. So it might look like a -- the Southwestern Bell
4 coinless phones at the airport, the blue phone? Is it
5 similar to that?

6 A. Yes. Yes.

7 Q. Who manufactures that?

8 A. AT&T.

9 Q. AT&T makes that. And does AT&T manufacture the
10 board that provides these enhancements?

11 A. No.

12 Q. And can you tell us who manufactures the enhanced
13 features?

14 A. PCS, Incorporated.

15 Q. Do you know where they're based?

16 A. I believe they're in Georgia.

17 Q. So would it be PCS that would determine whether
18 to make available an update regarding the number of --
19 the number of permeating numbers that you can block in
20 the set? Is that something they provide?

21 A. Yes.

22 Q. But currently was it your testimony that there's
23 a limit of 500 numbers for each set that can be
24 blocked?

25 A. Yes.

1 Q. And you're not sure whether that would be 500
2 local and intraLATA numbers or whether it might
3 include numbers in different LATAs?

4 A. You can block up to 500 numbers regardless of
5 where they're located.

6 Q. So it's not limited to seven digit?

7 A. No.

8 Q. It can be seven or ten? Okay. How many
9 locations receive this service in Arkansas now, if you
10 know?

11 A. I don't know the number of locations off the top
12 of my head.

13 Q. Do you know if any?

14 A. Yes, I do know. Are you talking about inmate
15 service?

16 Q. I'm not specifically speaking of the inmate
17 features, I'm sorry.

18 A. Enhanced features or inmate service?

19 Q. The inmate service with the enhanced features.

20 A. Yes, that is in service.

21 Q. That's in service in Arkansas in correctional
22 facilities?

23 A. Yes.

24 Q. Do you know when it was made available?

25 A. February 7th.

1 Q. February of --

2 A. This year.

3 Q. This year. So it was actually made available
4 after the responses to the RFP; is that true?

5 A. This was the first location other than the RFP
6 that had a request for enhanced features.

7 Q. But at the -- I'm sorry, could you say that
8 again?

9 A. This was the first facility other than the RFP
10 for the state that requested enhanced features. We've
11 not had a request from any of our other inmate
12 facilities for enhanced features.

13 Q. So at the time that Southwestern Bell submitted
14 its response to RFP indicating that it had these
15 features, it in fact had not introduced them yet; is
16 that correct?

17 A. That's correct.

18 Q. Now are these enhanced features, did they result
19 in any changes to the inmate services tariff?

20 A. No.

21 Q. So these features are not described within the
22 tariff itself?

23 A. To the best of my knowledge, they're not.

24 Q. Now, are all of these enhanced features free to
25 the institution?

1 A. Yes.

2 Q. So if the prison asks for one number to be
3 blocked, there's no charge for making that
4 administrative change?

5 A. That's correct.

6 Q. Are there costs associated with making the
7 change?

8 A. From our standpoint.

9 Q. Yes, sir.

10 A. The cost is involved in taking a telephone call
11 and sitting down at the PC and programming it, the
12 administrative costs.

13 Q. But there's no -- there's no recovery under the
14 tariff of that expense from the person who requests
15 the blocking?

16 A. As far as I know, no, there isn't.

17 Q. Do you have a responsibility for states other
18 than Arkansas with respect to this product?

19 A. No.

20 MR. WANN: Your Honor, I've let this kind of
21 go far afield from direct. As far as cost studies in
22 other states, I think that's a little far from what
23 was testified to earlier.

24 MR. BRENT: Well, I withdraw that last
25 question. I think I'm finished. Thank you.

1 JUDGE BRADSHAW: Does the Staff have any
2 questions for this witness?

3 MS. D'AUTEUIL: No, Your Honor.

4 JUDGE BRADSHAW: Any re-direct, Mr. Wann?

5 MR. WANN: No, Your Honor.

6 JUDGE BRADSHAW: Thank you, Mr. Bender.

7 I believe that is everyone who submitted
8 comments in this docket. Is there a desire for
9 closing statements? Mr. Wann? Let me put it this
10 way. Is there a desire for closing statements or
11 briefs?

12 MR. KURRUS: For briefs, Your Honor.

13 MS. GENTZ: Briefs, Your Honor.

14 MR. WANN: I don't think I have a choice.
15 Briefs is fine.

16 JUDGE BRADSHAW: I'll expect simultaneous
17 initial briefs twenty days from today, reply briefs
18 ten days thereafter. If one of those dates -- since I
19 don't have a calendar in front of me, if one of those
20 dates happens to fall on a Saturday or Sunday,
21 obviously the date will extended to the next Monday or
22 a holiday would be treated the same.

23 If there is nothing further, this hearing is
24 adjourned.

25 (The hearing was concluded at 2:40 p.m.)

SERIAL 9 0 0 0 1 - RFP

REQUEST FOR PROPOSALS FOR: CHARGE-CALL (COINLESS) INMATE TELEPHONE

Notice is hereby given that sealed proposals will be received by the Materials Management Department, Materials Management Center, 320 West Lincoln Street, Phoenix, Arizona 85003, until 2:00 P.M./ M.S.T. on WEDNESDAY, JUNE 6, 1990 for the furnishing of the following for Maricopa County, and the bids will be opened by the Clerk of the Board, the Finance Director and the Materials Management Director or their designated representative at an open, public meeting at the above time and place.

Quantity of material, delivery point and specifications are attached. The specifications on this call for bids and the instructions to Proposers on the reverse side of this sheet are a part of this Request for Proposals and will constitute the terms and conditions of the agreement between the County and the successful Proposer.

All items contained in the instructions to Proposers are applicable in preparing proposals for the material covered by this Request for Proposals. These instructions are printed on the reverse side of this document and are very important.

This Request for Proposals is for awarding a purchasing contract to cover the period ending one (1) year from date of award, with an option to renew under the same terms and conditions, with a further provision that either party may cancel the purchasing portion of the contract on 30 days written notice. This provision in no way affects transactions which are in progress and covered by purchase orders at the time of the cancellation of the purchasing provisions in this bid.

All Proposals must be signed, sealed and addressed to the Materials Management Department, Materials Management Center, 320 West Lincoln Street, Phoenix, Arizona 85003, and marked, "Serial 90001-RFP for proposals for CHARGE-CALL (COINLESS) INMATE TELEPHONE."

J. J. Warnas, Director
Materials Management

Publication Dates: MAY 4 AND MAY 11, 1990

BID ENVELOPES WITH INSUFFICIENT POSTAGE WILL NOT
BE ACCEPTED BY THE MARICOPA COUNTY MATERIALS
MANAGEMENT CENTER

INQUIRIES:

JON MEDWIN
CONTRACT SPECIALIST II
TELEPHONE (602) 495-8020

INSTRUCTIONS TO BIDDERS

1. Bid price shall be made F.O.B. Phoenix to the designated delivery points within the metropolitan area. Deliveries shall be made inside to the location designated by the County. All bid prices shall be held firm for a period of 60 days after bid opening. **DO NOT INCLUDE SALES/USE TAX IN YOUR BID PRICE.** The percentage of sales/use tax applicable to this contract will be listed on the purchase order and allowed at time of payment.
2. The County shall not permit any bid to be modified once the sealed bid has been publicly opened by the County at the bid opening. Modifications proposed after the bid opening to make a product conform to the specifications will not be considered. No responsibility will attach to a county employee for the premature opening of a bid not properly addressed and identified in accordance with the bid documents.
3. Equipment and materials bid shall be new, current design and meet specifications. Bidder must identify the manufacturer of each product that he is bidding. Bidder should supply all information necessary for the County to determine (a) whether the product offered meets the requirements of the specifications, and (b) exactly what the bidder proposes to furnish. The bidders must certify that the material offered meets all technical specifications of the bid documents. Bidders may be requested to furnish samples of items proposed for examination by the County. Any item(s) so requested shall be furnished at no cost to the County. The County reserves the right to call for samples from any bidders and submit the samples for evaluation. The county shall be the sole judge of whether the samples submitted meet the specifications.
4. Quantities as shown in the bid form are estimates only based upon available information. The county reserves the right to adjust the quantities as necessary to meet its needs.
5. Materials and equipment are for delivery not later than thirty (30) days after receipt of County purchase order unless otherwise stated in the call for bids.
6. Whenever an article or material is defined by describing a proprietary product or by using the name of a manufacturer, the term "or equal" if not inserted shall be implied. The specified article or material shall be understood as indicating the type, function, minimum standard of design, efficiency and quality desired, and shall not be construed as to exclude other manufactured products of comparable quality, design and efficiency.
7. The evaluation of bids and the determination of acceptability of the supplies, materials, or services bid shall be the sole responsibility of the County and will be based on information furnished by the bidder, or identified in his bid, as well as other information reasonably available to the County. Cash discount terms for ten days or less will be considered as net in comparing bid prices. The Board reserves the right to make award on the basis of accepting the lowest bid on the material or equipment conforming to the bid specifications, to waive any informalities in the bid or may reject all bids.
8. Unless otherwise specified, materials and equipment purchased will be inspected by the receiving activity as to meeting the quality and quantity requirements of the call for bids. When deemed necessary, samples of supplies or materials will be taken at random from stock received for submission to a commercial laboratory or other appropriate agency, for analysis and test as to whether the material conforms in all respects to the specifications. In cases where commercial laboratory reports indicate that the materials do not meet the specifications, the expense of such analysis is to be borne by the vendor holding the contract.
9. If a bid or performance bond is required as a part of these specifications, the amount will be stated in the bid document. Vendors failing to supply a bid bond as specified in the bid call will be considered non-responsive and their bid will not be considered. Unless otherwise specified in the call for bids, performance bonds can be requested from successful bidders at the sole discretion of Maricopa County. Vendor failing to supply performance bond as required will forfeit his right to the contract, bid bond, if any, and the award. Performance bonds shall be furnished within seven days of the notification of award, date of U.S. postmark will be accepted as date of delivery of performance bond.
10. Bidders shall have any and all licenses required to perform the work specified herein, and shall conform to all applicable state and local codes and laws. Bidders must furnish proof of their licensing authorization with their bid.
11. Terms and payment: Unless otherwise specified by the bidder, a 2% discount will be taken when bills (excluding labor) are paid on or before the 10th of the month following receipt of itemized invoices. Payment under contract will be made in the manner provided by law. Invoices shall be prepared and submitted in accordance with the instructions provided on the purchase order. Invoices shall contain the following information: purchase order number, item numbers, description of supplies and/or services, sizes, quantities, unit prices and extended totals and applicable sales/use tax. The county is not subject to excise tax.
12. Maricopa County Materials Management Department reserves the right to allow price adjustments not to exceed the amount of a manufacturer's or wholesaler's price adjustment, providing the contractor furnishes a thirty (30) day advance notice of such adjustment in writing to the Materials Management Department. This must be accompanied by documentary proof of any adjustment in price from the respective manufacturer of the product offered to Maricopa County in the herein contained bid.
- Maricopa County Materials Management further reserves the right to accept or reject a change in price. In the event of rejection, Maricopa County Materials Management Department shall cancel the award of the line item and give notice in writing to the contractor concerned.
13. Failure on the part of the bidder to comply with all of the above instructions may result in bid rejection by the Board of Supervisors, and/or cancellation of orders without liability to the County.